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# Security Council

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## Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Ecuador, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-21677 (E) 250202 190302

## Annex

[Original: Spanish]

### Note verbale dated 27 December 2001 from the Permanent Mission of Ecuador to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Ecuador to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to attach Ecuador's report on the implementation of that resolution (see enclosure).

## Enclosure

# Republic of Ecuador

# Report on the implementation of United Nations Security Council resolution 1373 (2001) concerning counter-terrorism

### Background information

Ecuador condemns the terrorist acts of 11 September 2001 and rejects all terrorist crimes and activities. In a letter addressed to the President of the United States of America on that date, the President of Ecuador, Gustavo Noboa, affirmed that "the Ecuadorian people and Government are deeply dismayed at, and strongly condemn, these senseless attacks" and expressed his belief that "international terrorism in all its forms must be fought with all the mechanisms of international law available to peace-loving peoples".

In response to Security Council resolution 1373 (2001), and in reference to communication SCA720701 of 23 October 2001 from the Chairman of the Counter-Terrorism Committee, the Ministry of Foreign Affairs of Ecuador announced that the Permanent Mission of Ecuador to the United Nations, headquartered in New York, and the General Coordination Office of that Ministry have been chosen to be the contact points for the purposes and work of the Committee. In addition, the General Coordinator of the Ministry of Foreign Affairs was appointed National Coordinator for Counter-Terrorism Activities.

The Ministry of Foreign Affairs set up a working group that has prepared a series of studies and documents on terrorism, on Ecuador's position on this problem and on actions that should be taken to implement resolution 1373 (2001) in Ecuador. An inter-agency committee, composed of representatives of the Supreme Court of Justice, the Ministries of Government and Police, National Defence and Economy and Finances, the Public Prosecutor's Office, the Superintendencies of Banks and Companies and the National Telecommunications Council (CONATEL), subsequently met to take immediate steps pursuant to the Security Council resolution. The Ministry of Foreign Affairs requested that the National Congress should promptly approve an agreement and two protocols on counter-terrorism, which are being considered in Parliament and are the only international instruments which Ecuador has not yet ratified.

### 1. Financial control

The Superintendency of Banks of Ecuador, through the National Administration for the Supervision of Financial Institutions, has instructed all banks and entities under its control to investigate the existence of accounts that might correspond to any person or organization having terrorist connections and appearing on the lists provided by the United Nations Security Council. Pursuant to this instruction, if funds or other assets belonging to such persons or organizations are found, they must be frozen. All banks domiciled in Ecuador are required to submit reports on this matter.

For its part, the Ecuadorian Superintendency of Companies has requested the administrations of all companies to submit suggestions for more effective financial control and has instructed them, in accordance with resolution 1373 (2001), to

prevent and suppress the financing of terrorist groups, criminalize the provision or collection of funds to be used for terrorist acts and freeze the funds and other financial assets of persons connected with terrorism.

**2. Domestic legislation and international conventions**

Chapter III of the Ecuadorian Penal Code imposes penalties for offences against the internal security of the State and provides that " the very existence of an attempt is punishable" (art. 130). Article 136 stipulates that an attack whose purpose is to cause devastation and bloodshed shall be punishable by eight to 12 years' rigorous imprisonment". The same article establishes that "conspiracy to carry out such an attack, followed by any act of preparation for it, shall be punishable by four to eight years' rigorous imprisonment". Article 138 of the Code provides for a penalty of from one to five years for anyone "who hijacks (...) a warship" or "aircraft". In addition, article 147 stipulates that "anyone who promotes, directs or participates in guerrilla organizations, commandos, combat groups or terrorist groups or cells whose purpose is to subvert public order or overthrow, attack or interfere with the normal functioning of the Government shall be punishable by rigorous imprisonment of from four to eight years" and a fine.

Moreover, chapter IV, article 160, of the Penal Code imposes a penalty of three to six years' medium-term rigorous imprisonment and a fine for "anyone who, for the purpose of committing offences against the security of persons or property, manufactures, provides, acquires, steals, throws, uses or introduces into the country weapons, munitions or explosives, explosive substances, asphyxiating or toxic materials, or substances used in their preparation". "If the said acts cause injury to persons, the maximum penalty set forth in the previous paragraph shall be imposed, and if the death of one or more persons results, the penalty shall be 16 to 25 years' long-term rigorous imprisonment" and a fine. An additional article (art. 160-A) of the Ecuadorian Penal Code provides that "anyone who, individually or collectively, as participants in irregular forces, organizations, gangs, commandos, terrorist groups, guerrillas or similar groups, whether armed or not, and whether claiming patriotic, social, economic, political, religious, revolutionary, retaliatory, proselytizing, racial, local or regional motives, commits offences against the security of persons or human groups of any type, or against their property, by attacking, damaging or destroying buildings, banks, warehouses, shops, markets or offices; or by raiding or invading homes, living quarters, secondary or primary schools, institutes, hospitals, clinics or convents, or government, military, police or paramilitary installations; or by stealing or confiscating property or assets of any type or amount; or by abducting persons or taking over vehicles, vessels or aircraft for the purposes of demanding ransom, exerting pressure and calling for changes in laws or legally promulgated orders and provisions or demanding that the competent authorities release persons being held or punished for common or political offences; or by occupying, by force, threat or intimidation, public or private premises or services of any nature or type; or by building barricades, barriers, trenches or obstacles for the purpose of confronting the Government to defend his or her intentions, plans, opinions or manifestos; or by attacking, in any way, the community or its property and services, shall be subject to a penalty of from four to eight years' rigorous imprisonment and a fine". "If the said criminal acts cause injury to persons, the maximum penalty set forth in the previous paragraph shall be

imposed, and if the death of one or more persons results, the penalty shall be 16 to 25 years' long-term rigorous imprisonment and a fine."

In addition, article 13 of the Basic Regulations of the Department of Public Security provides that one of the functions of provincial public security agencies is to "plan and carry out immediate, short-term and future actions to neutralize and prevent the activities of elements and organizations that are carrying out proselytizing activities, especially those involving sabotage, espionage, sedition, subversion and terrorism and other activities that endanger the internal security of the State and the peace and tranquillity of the citizenry".

The Political Constitution also provides that "the State guarantees to all its inhabitants (...) enjoyment of the human rights established by this Constitution and in the declarations, pacts, agreements and other international instruments in force" (art. 17); that "the State shall adopt the necessary measures to prevent, eliminate and punish, especially, violence against children, adolescents, women and senior citizens"; that "lawsuits and punishments for (...) kidnapping and homicide for political reasons (...) shall be imprescriptible"; and that these offences "shall not be susceptible to pardon or amnesty" (art. 23).

Notwithstanding the above, the inter-agency meeting convened to review the topic considered that current Ecuadorian law on counter-terrorism could be strengthened by incorporating updated definitions that would duly criminalize certain offences and would increase the penalties for those who have committed certain crimes. Consequently, it was decided to form a commission to draft a revised Penal Code, which will be submitted as soon as possible to the National Congress for adoption.

With regard to international conventions, the Political Constitution of the Republic of Ecuador "declares international law as the norm for the conduct of States in their reciprocal relationships" and, therefore, that of Ecuador (art. 4, para. 3). Article 18 adds that "the rights and guarantees determined by this Constitution and by the international instruments in force are directly and immediately applicable before any judge, tribunal or authority". As Ecuador is a founding Member of the United Nations and has signed and ratified the Charter of the Organization, the resolutions adopted by the Security Council under the provisions of the Charter are legally in force in Ecuador. Consequently, Security Council resolution 1373 (2001) is binding on Ecuador, and the State authorities and entities have therefore undertaken to implement its provisions in accordance with the foregoing paragraphs.

Ecuador has ratified nine of the 12 existing international conventions against terrorism, and the remaining three, including the International Convention for the Suppression of the Financing of Terrorism, are in the process of ratification by the National Congress.

By putting forward various initiatives and proposals, Ecuador also participates actively and directly in the work of the relevant committees of the United Nations and of the Organization of American States on elaborating international and hemispheric conventions against terrorism.

### 3. Security, monitoring and control measures and police and military measures

The Office of the Public Prosecutor has instructed the district prosecutors' offices to undertake, together with the judicial police and in coordination with the

area command of the armed forces, the investigation and prosecution of persons suspected of participating in the financing or preparation of terrorist acts.

The Ecuadorian National Police Command has issued a confidential directive with specific anti-terrorist instructions to the National Intelligence Office, the National Office of Judicial Police and Investigation, the National Anti-Narcotics Office, the National Migration Office, the National Public Security Office, the four district commands and the special units.

The Ecuadorian National Police has formed a special working team to uncover, investigate, neutralize and gather intelligence to prevent terrorist activities in Ecuador and share information with other countries.

The National Police is training staff in this area to deal with the problem more efficiently. It has reassigned police, especially in the border regions, to strengthen security and control the movement of persons and vehicles. The police structure has been reorganized in the various provincial commands in the northeast sector. The National Police is coordinating with the United States of America to share information and train and equip the National Intelligence Office and the Anti-terrorist Unit. A database containing information on all persons that may have terrorist connections is being constantly updated.

In the border areas, the Ecuadorian armed forces have tightened stationary and mobile land and water patrols to prevent the infiltration of terrorist groups and drug traffickers linked to terrorist activities. The Military Intelligence Office maintains constant vigilance to detect the presence of elements related to guerrilla drug trafficking and terrorist or armed groups operating in neighbouring Colombia. The Ecuadorian armed forces have formed an elite, specially trained unit (Grupo Especial de Operaciones (GEO)) to fight terrorism.

The Intelligence Section of the armed forces keeps in contact with the security organizations of neighbouring countries. Meetings with some of them have been held to share intelligence and coordinate efforts.

A number of steps have been taken to enhance the security of travel documents, and a new Ecuadorian passport will soon be issued; it has the highest security standards possible to prevent forgeries or alterations.

### 4. Procedures to prevent abuse of refugee status by terrorist elements

Ecuador is a party to the 1951 Geneva Convention on the Status of Refugees. To implement this Convention, the State adopted regulations under Executive Decree No. 3301 of 6 May 1992.

These regulations provide that any person seeking asylum must file an application and undergo a review of his or her case before being accepted or rejected as a refugee. While the Commission on the Status of Refugees in Ecuador studies the case and makes a determination, the applicant receives a 90-day provisional applicant certificate until the situation is resolved. This certificate should not be taken as being a recognition of refugee status; it is only a temporary document.

Every applicant must undergo a confidential and detailed process of interviews and prior investigation. This process results in a report by the secretariat of the Commission, based upon which the Commission determines the outcome of each case.

Before resolving the applicant's situation, the Commission, if it considers that a person may have a criminal record or is suspected of having committed a crime, requests the Ecuadorian National Police, a body which is also represented on the Commission, to investigate the matter. If an applicant has committed serious crimes or offences against the peace or against humanity in his or her country of origin or in any other country, the application is rejected on the grounds that it contravenes international and national law.

If, after being accepted as a refugee, a person commits acts characterized by international law as crimes against humanity or offences against the peace, his or her refugee status is immediately revoked, and he or she is subject to domestic criminal procedures or to being expelled, if extradition is requested by another interested country. If the offence is an ordinary serious offence, his or her refugee status is not revoked, but he or she is subject to the criminal procedures and penalties prescribed by Ecuadorian law.

The Ministry of Foreign Affairs, in issuing the 12-IV refugee visa, requires each refugee to renew the visa every year; this makes it possible to monitor his or her activities in Ecuador. The Ministry collaborates with the Migration Police, which takes a migratory census of every alien resident in Ecuador.

The present document is Ecuador's first report submitted in compliance with United Nations Security Council resolution 1373 (2001).

Ecuador, in line with its foreign policy, will continue its fight against terrorism by all means available to it.

To that end, it will follow up the steps already taken on this issue and will continue to submit future reports as required.